

AN ACT

RELATING TO THE COLLECTION OF THE USE TAX ON MANUFACTURED
HOUSING, THE LICENSING OF MANUFACTURED HOME RETAILERS,
AMENDING STATUTORY REFERENCES TO CERTAIN TYPES OF HOME
DEALERS, ESTABLISHING TITLING PROCEDURES FOR CERTAIN
MANUFACTURED AND MOBILE HOMES, MAKING PENALTIES APPLICABLE,
AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 103A.55, subsection 1, Code 2009, is
amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* Failing to comply with the requirements
of section 423.26A relating to the collection of use tax.

Sec. 2. Section 312.1, subsection 1, paragraph d, Code 2009,
is amended to read as follows:

d. Revenue derived from the use tax collected under ~~section~~ sections 423.26 and 423.26A, to the extent provided under section 321.145, subsection 2.

Sec. 3. Section 321.20, subsection 1, paragraph e, Code 2009, is amended to read as follows:

e. The amount of the fee for new registration to be paid under section 321.105A, ~~or~~ the amount of tax to be paid under section 423.26, subsection 1, or the amount of tax to be paid under section 423.26A.

Sec. 4. Section 331.557, subsection 3, Code 2009, is amended to read as follows:

3. Collect and forward the use tax on vehicles subject only to a certificate of title and on manufactured housing as provided in section 423.14, ~~and~~ section 423.26, subsection 1, and section 423.26A.

Sec. 5. Section 423.14, subsection 2, paragraph a, Code 2009, is amended to read as follows:

a. The tax upon the use of all vehicles subject only to the issuance of a certificate of title ~~or the tax upon the use of manufactured housing~~ shall be collected by the county treasurer or the state department of transportation pursuant to section 423.26, subsection 1. The county treasurer shall retain one dollar from each tax payment collected, to be credited to the county general fund.

Sec. 6. Section 423.16, subsection 1, Code 2009, is amended to read as follows:

1. The retail sale or transfer of watercraft, modular homes, ~~manufactured housing~~, or mobile homes, and the retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in section 423.15, subsection 3.

Sec. 7. Section 423.26, subsection 1, paragraph a, Code 2009, is amended to read as follows:

a. The use tax imposed upon the use of vehicles subject only to the issuance of a certificate of title ~~or imposed upon the use of manufactured housing~~ shall be paid by the owner of the

~~vehicle or of the manufactured housing~~ to the county treasurer or the state department of transportation from whom the certificate of title is obtained. A certificate of title shall not be issued until the tax has been paid. The county treasurer or the state department of transportation shall require every applicant for a certificate of title to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, ~~installed purchase price,~~ and other information relative to the purchase of the ~~vehicle or manufactured housing~~. On or before the tenth day of each month, the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

Sec. 8. NEW SECTION. 423.26A Manufactured housing — collection of use tax — certificate of title.

1. Except as provided in subsection 3, the use tax imposed upon the use of manufactured housing shall be paid by the owner of the manufactured housing to the manufactured home retailer licensed under chapter 103A. The owner of the manufactured housing shall also provide to the manufactured home retailer all information necessary to complete and submit an application for a certificate of title.

2. Use tax collected by the manufactured home retailer shall be forwarded to the county treasurer or the state department of transportation. The county treasurer shall retain one dollar from each tax payment collected by a manufactured home retailer and paid to the county treasurer, to be credited to the county general fund. The manufactured home retailer shall submit an application for certificate of title on behalf of the owner of the manufactured housing.

3. The use tax imposed upon the use of manufactured housing brought into the state of Iowa which has not previously been subject to the tax imposed under this subchapter and for which that tax has not been paid, shall be paid by the owner of the manufactured housing to the county treasurer or the state department of transportation from whom the certificate of title

is obtained. The owner of the manufactured housing shall submit an application for a certificate of title. Section 423.22 shall apply in the case where the owner has paid tax in another state.

4. The county treasurer or the state department of transportation shall require every application for a certificate of title to include information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, installed purchase price, and other information relative to the purchase of the manufactured housing.

5. A certificate of title shall not be issued until the tax has been paid. A certificate of title shall be delivered to the owner of the manufactured housing by the county treasurer or state department of transportation who received the use tax.

6. On or before the tenth day of each month, the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

7. A person who willfully makes a false statement in regard to taxation under this section is guilty of a fraudulent practice. A person who willfully makes a false statement in regard to taxation under this section with the intent to evade the payment of tax shall be assessed a penalty of seventy-five percent of the amount of tax unpaid and required to be paid.

Sec. 9. Section 423.36, subsection 8, paragraph b, subparagraph (2), Code 2009, is amended to read as follows:

(2) Taxes imposed under section 423.26, section 423.26A, and chapter 423C.

Sec. 10. Section 423.43, subsection 2, Code 2009, is amended to read as follows:

2. All revenue derived from the use tax imposed pursuant to ~~section~~ sections 423.26 and 423.26A shall be credited to the statutory allocations fund created under section 321.145, subsection 2.

Sec. 11. Section 435.23, Code Supplement 2009, is amended to read as follows:

435.23 Exemptions — prorating tax.

The manufacturer's and ~~dealer's~~ retailer's inventory of mobile homes, manufactured homes, or modular homes not in use as a place of human habitation shall be exempt from the annual tax. All travel trailers shall be exempt from this tax. The homes and travel trailers in the inventory of manufacturers and ~~dealers~~ retailers shall be exempt from personal property tax. The homes coming into Iowa from out of state and located in a manufactured home community or mobile home park shall be liable for the tax computed pro rata to the nearest whole month, for the time the home is actually situated in Iowa.

Sec. 12. Section 435.24, subsections 1 and 5, Code Supplement 2009, are amended to read as follows:

1. The annual tax is due and payable to the county treasurer on or after July 1 in each fiscal year and is collectible in the same manner and at the same time as ordinary taxes as provided in sections 445.36, 445.37, and 445.39. Interest at the rate prescribed by law shall accrue on unpaid taxes. Both installments of taxes may be paid at one time. The September installment represents a tax period beginning July 1 and ending December 31. The March installment represents a tax period beginning January 1 and ending June 30. A mobile home, manufactured home, or modular home coming into this state from outside the state, put in use from a ~~dealer's~~ retailer's inventory, or put in use at any time after July 1 or January 1, and located in a manufactured home community or mobile home park, is subject to the taxes prorated for the remaining unexpired months of the tax period, but the purchaser is not required to pay the tax at the time of purchase. Interest attaches the following April 1 for taxes prorated on or after October 1. Interest attaches the following October 1 for taxes prorated on or after April 1. If the taxes are not paid, the county treasurer shall send a statement of delinquent taxes as part of the notice of tax sale as provided in section 446.9. The owner of a home who sells the home between July 1 and December 31 and obtains a tax clearance

statement is responsible only for the September tax payment and is not required to pay taxes for subsequent tax periods. If the owner of a home located in a manufactured home community or mobile home park sells the home, obtains a tax clearance statement, and obtains a replacement home to be located in a manufactured home community or mobile home park, the owner shall not pay taxes under this chapter for the newly acquired home for the same tax period that the owner has paid taxes on the home sold. Interest for delinquent taxes shall be calculated to the nearest whole dollar. In calculating interest each fraction of a month shall be counted as an entire month.

5. Before a home may be moved from its present site by any person, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. When a person moves a home from real property to a ~~dealer's~~ retailer's stock or to a manufactured home community or mobile home park, as defined in section 435.1, a tax clearance statement shall be applied for, and issued, from the county treasurer of the county where the present site is located. When the home is moved to another county in this state, the county treasurer shall forward a copy of the tax clearance statement to the county treasurer of the county in which the home is being relocated. However, a tax clearance statement is not required for a home in a manufacturer's or ~~dealer's~~ retailer's stock which has not been used as a place for human habitation. A tax clearance form is not required to move an abandoned home. A tax clearance form is not required in eviction cases provided the manufactured home community or mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a ~~dealer~~ retailer acquires a home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the ~~dealer~~ retailer. The tax clearance statement shall be provided

by the county treasurer in a method prescribed by the department of transportation.

Sec. 13. NEW SECTION. 435.26B Affidavit in lieu of surrender of certificate of title — manufactured and mobile homes.

1. If there is no record that a certificate of title has been issued or surrendered for a manufactured home or mobile home that is located outside a manufactured home community or mobile home park, that has been converted to real estate by being placed on a permanent foundation, and that is entered on the tax rolls, the owner may effectuate a surrender of the certificate of title by recording with the county recorder an affidavit that includes all of the following:

a. The full legal name, Iowa driver's license number or Iowa nonoperator's identification card number, bona fide residence, and mailing address of the owner, and any other identification information required by the state department of transportation. If the owner is a firm, association, or corporation, the affidavit shall contain the bona fide business address and federal employer identification number of the owner.

b. A description of the manufactured or mobile home including, insofar as the specified data may exist with respect to a manufactured or mobile home, the manufacturer, model, year of manufacture, and identification number or other assigned number.

c. A statement of the affiant's title or ownership interest and a statement of all liens, encumbrances, or security interest upon the manufactured or mobile home, including the names and mailing addresses of all persons having any such liens, encumbrances, or security interests.

d. A statement of any facts or information known to the affiant that could affect the validity of title or the existence or validity of any lien, encumbrance, or security interest on the manufactured or mobile home.

e. The name and address of the person from whom the owner purchased or acquired the manufactured or mobile home,

including information related to the location and date of purchase or acquisition.

f. The affidavit shall also include an attached written opinion by an attorney licensed to practice law in this state who has examined the abstract of title of the land upon which the manufactured or mobile home is situated. The opinion shall state the names of the owners and holders of mortgages, liens, or other encumbrances on the land upon which the manufactured or mobile home is situated and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

g. A statement that the manufactured or mobile home is located outside a manufactured home community or mobile home park, has been converted to real estate by being placed on a permanent foundation, and has been entered on the tax rolls. This statement shall be endorsed by the city or county assessor, as applicable, and include the legal description of the real property upon which the manufactured or mobile home is situated.

h. A statement that the owner has made a diligent search and inquiry but has been unable to locate and produce a manufacturer's certificate of origin or a certificate of title for the manufactured or mobile home and that the owner has no knowledge that a certificate of title has previously been issued or surrendered for the manufactured or mobile home.

i. (1) An endorsement by the state department of transportation that the department has searched its records and has no record of a certificate of title or a surrender of a certificate of title for the manufactured or mobile home and that the department has no record of any ownership interest contrary to the ownership interest asserted by the affiant. The endorsement shall also specify that the state department of transportation is unable to identify any lien, encumbrance, or security interest contrary to those specified by the affiant.

(2) The state department of transportation shall not conduct any search of records or provide any endorsement until the

affidavit has been completed, executed, and endorsed pursuant to paragraphs "a" through "h" and the affiant has paid a fee not to exceed two hundred dollars. The state department of transportation shall set the amount of the fee by rule.

(3) Following endorsement of the affidavit, the state department of transportation shall return the affidavit to the owner for recording.

(4) If the state department of transportation has endorsed an affidavit, the department shall not issue a certificate of title for the manufactured or mobile home unless the manufactured or mobile home is reconverted under section 435.27.

2. Recording the affidavit with all necessary endorsements and attachments shall establish the surrender of the certificate of title.

3. After the surrender of the certificate of title under this section, a conveyance of an interest in the manufactured or mobile home shall not require a transfer of title if the manufactured or mobile home remains located on the same real property that is identified in the affidavit under subsection 2.

4. A foreclosure action on a manufactured or mobile home for which the certificate of title was surrendered under this section shall be conducted as a real estate foreclosure.

5. A tax lien and its priority shall not be modified as a result of a surrender of title under this section.

6. The state department of transportation shall adopt rules under chapter 17A to implement this section. The rules adopted by the state department of transportation shall include a standardized form for an affidavit required under this section.

Sec. 14. Section 435.28, Code 2009, is amended to read as follows:

435.28 County treasurer to notify assessor.

Upon issuance of a certificate of title to a mobile home or manufactured home which is not located in a manufactured home community or mobile home park or ~~dealer's~~ retailer's inventory, the county treasurer shall notify the assessor of the existence

of the home for tax assessment purposes.

Sec. 15. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

JOHN P. KIBBIE

President of the Senate

PATRICK J. MURPHY

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2199, Eighty-third General Assembly.

MICHAEL E. MARSHALL

Secretary of the Senate

Approved _____, 2010

CHESTER J. CULVER

Governor